

well as exclusion on consent; suspension; and public reprimand. Unless otherwise ordered by the USPTO Director, the OED Director shall give notice of public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public. If public discipline is imposed, the OED Director shall cause a final decision of the USPTO Director to be published. Final decisions of the USPTO Director include default judgments. See § 11.54(a)(2). If a private reprimand is imposed, the OED Director shall cause a redacted version of the final decision to be published.

(b) *Records available to the public.* Unless the USPTO Director orders that the proceeding or a portion of the record be kept confidential, the OED Director's records of every disciplinary proceeding where a practitioner is reprimanded, suspended, or excluded, including when said sanction is imposed by default judgment, shall be made available to the public upon written request, except that information may be withheld as necessary to protect the privacy of third parties or as directed in a protective order issued pursuant to § 11.44(c). The record of a proceeding that results in a practitioner's transfer to disability inactive status shall not be available to the public.

(c) *Access to records of exclusion by consent.* Unless the USPTO Director orders that the proceeding or a portion of the record be kept confidential, an order excluding a practitioner on consent under § 11.27 and the affidavit required under paragraph (a) of § 11.27 shall be available to the public, except that information in the order or affidavit may be withheld as necessary to protect the privacy of third parties or as directed in a protective order under § 11.44(c). The affidavit required under paragraph (a) of § 11.27 shall not be used in any other proceeding except by order of the USPTO Director or upon written consent of the practitioner.

§ 11.60 Petition for reinstatement.

(a) *Restrictions on reinstatement.* An excluded, suspended or resigned practitioner shall not resume practice of pat-

ent, trademark, or other non-patent law before the Office until reinstated by order of the OED Director or the USPTO Director.

(b) *Petition for reinstatement.* An excluded or suspended practitioner shall be eligible to apply for reinstatement only upon expiration of the period of suspension or exclusion and the practitioner's full compliance with § 11.58. An excluded practitioner shall be eligible to apply for reinstatement no earlier than at least five years from the effective date of the exclusion. A resigned practitioner shall be eligible to petition for reinstatement and must show compliance with § 11.58 no earlier than at least five years from the date the practitioner's resignation is accepted and an order is entered excluding the practitioner on consent.

(c) *Review of reinstatement petition.* An excluded, suspended or resigned practitioner shall file a petition for reinstatement accompanied by the fee required by § 1.21(a)(10) of this subchapter. The petition for reinstatement shall be filed with the OED Director. An excluded or suspended practitioner who has violated any provision of § 11.58 shall not be eligible for reinstatement until a continuous period of the time in compliance with § 11.58 that is equal to the period of suspension or exclusion has elapsed. A resigned practitioner shall not be eligible for reinstatement until compliance with § 11.58 is shown. If the excluded, suspended or resigned practitioner is not eligible for reinstatement, or if the OED Director determines that the petition is insufficient or defective on its face, the OED Director may dismiss the petition. Otherwise the OED Director shall consider the petition for reinstatement. The excluded, suspended or resigned practitioner seeking reinstatement shall have the burden of proof by clear and convincing evidence. Such proof shall be included in or accompany the petition, and shall establish:

(1) That the excluded, suspended or resigned practitioner has the good moral character and reputation, competency, and learning in law required under § 11.7 for admission;

(2) That the resumption of practice before the Office will not be detrimental to the administration of justice

or subversive to the public interest; and

(3) That the suspended practitioner has complied with the provisions of § 11.58 for the full period of suspension, that the excluded practitioner has complied with the provisions of § 11.58 for at least five continuous years, or that the resigned practitioner has complied with § 11.58 upon acceptance of the resignation.

(d) *Petitions for reinstatement—Action by the OED Director granting reinstatement.* (1) If the excluded, suspended or resigned practitioner is found to have complied with paragraphs (c)(1) through (c)(3) of this section, the OED Director shall enter an order of reinstatement, which shall be conditioned on payment of the costs of the disciplinary proceeding to the extent set forth in paragraphs (d)(2) and (3) of this section.

(2) *Payment of costs of disciplinary proceedings.* Prior to reinstatement to practice, the excluded or suspended practitioner shall pay the costs of the disciplinary proceeding. The costs imposed pursuant to this section include all of the following:

(i) The actual expense incurred by the OED Director or the Office for the original and copies of any reporter's transcripts of the disciplinary proceeding, and any fee paid for the services of the reporter;

(ii) All expenses paid by the OED Director or the Office which would qualify as taxable costs recoverable in civil proceedings; and

(iii) The charges determined by the OED Director to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for services of attorneys and experts, of the Office of Enrollment and Discipline in the preparation or hearing of the disciplinary proceeding, and costs incurred in the administrative processing of the disciplinary proceeding.

(3) An excluded or suspended practitioner may be granted relief, in whole or in part, only from an order assessing costs under this section or may be granted an extension of time to pay these costs, in the discretion of the OED Director, upon grounds of hard-

ship, special circumstances, or other good cause.

(e) *Petitions for reinstatement—Action by the OED Director denying reinstatement.* If the excluded, suspended or resigned practitioner is found unfit to resume the practice of patent law before the Office, the OED Director shall first provide the excluded, suspended or resigned practitioner with an opportunity to show cause in writing why the petition should not be denied. Failure to comply with § 11.12(c) shall constitute unfitness. If unpersuaded by the showing, the OED Director shall deny the petition. The OED Director may require the excluded, suspended or resigned practitioner, in meeting the requirements of § 11.7, to take and pass an examination under § 11.7(b), ethics courses, and/or the Multistate Professional Responsibility Examination. The OED Director shall provide findings, together with the record. The findings shall include on the first page, immediately beneath the caption of the case, a separate section entitled "Prior Proceedings" which shall state the docket number of the original disciplinary proceeding in which the exclusion or suspension was ordered.

(f) *Resubmission of petitions for reinstatement.* If a petition for reinstatement is denied, no further petition for reinstatement may be filed until the expiration of at least one year following the denial unless the order of denial provides otherwise.

(g) *Reinstatement proceedings open to public.* Proceedings on any petition for reinstatement shall be open to the public. Before reinstating any excluded or suspended practitioner, the OED Director shall publish a notice of the excluded or suspended practitioner's petition for reinstatement and shall permit the public a reasonable opportunity to comment or submit evidence with respect to the petition for reinstatement.

§ 11.61 Savings clause.

(a) A disciplinary proceeding based on conduct engaged in prior to September 15, 2008 may be instituted subsequent to such effective date, if such conduct would continue to justify suspension or exclusion under the provisions of this part.